

## TEXAS CRIME VICTIM RIGHTS

A victim of a violent crime is someone who (1) has suffered bodily injury or death or who has been the victim of sexual assault, kidnapping, or aggravated robbery, (2) the close relative (spouse, parent, or adult brother, sister or child) of a deceased victim, or (3) the guardian of a victim. The following rights are from Chapter 56, Article 56.02 of the Texas Code of Criminal Procedure.

(a) A victim, guardian of a victim, or close relative of a deceased victim is entitled to the following rights within the criminal justice system:

(1) the right to receive from law enforcement agencies adequate protection from harm and threats of harm arising from cooperation with prosecution efforts;

(2) the right to have the magistrate take the safety of the victim or his family into consideration as an element in fixing the amount of bail for the accused;

(3) the right, if requested, to be informed:

(A) by the attorney representing the state of relevant court proceedings, including appellate proceedings, and to be informed if those proceedings have been canceled or rescheduled prior to the event; and

(B) by an appellate court of decisions of the court, after the decisions are entered but before the decisions are made public;

(4) the right to be informed, when requested, by a peace officer concerning the defendant's right to bail and the procedures in criminal investigations and by the district attorney's office concerning the general procedures in the criminal justice system, including general procedures in the criminal justice system, including general procedures in guilty plea negotiations and arrangements, restitution, and the appeals and parole process;

(5) the right to provide pertinent information to a probation department conducting a pre-sentencing investigation concerning the impact of the offense on the victim and his family by testimony, written statement, or any other manner prior to any sentencing of the offender.

(6) the right to receive information regarding compensation to victims of crime as provided by subchapter B including information related to the costs that may be compensated under that subchapter and the amount of compensation, eligibility for compensation and procedures for application for compensation under that subchapter, the payment for a medical examination under Article 56.06 for a victim of a sexual assault, and when requested, to referral to available social service agencies that may offer additional assistance;

(7) the right to be informed, upon request, of parole procedures, to participate in the parole process, to be notified, if requested, of parole proceedings concerning the defendant in the victim's case, to provide to the Board of Pardons and Paroles for inclusion in the defendant's file information to be considered by the board prior

to the parole of any defendant convicted of any crime subject to this subchapter, and to be notified, if requested, of the defendants release;

(8) the right to be provided with a waiting area, separate or secure from other witnesses, including the offender and relatives of the offender, before testifying in any proceeding concerning the offender; if a separate waiting area is not available, other safeguards should be taken to minimize the victims contact with the offender and the offenders relatives and witnesses, before and during court proceedings;

(9) the right to prompt return of any property of the victim that is held by a law enforcement agency or the attorney for the state as evidence when the property is no longer required for that purpose; and

(10) the right to have the attorney for the state notify the employer of the victim, if requested, of the necessity of the victims cooperation and testimony in a proceeding that may necessitate the absence of the victim from work for good cause;

(11) the right to counseling, on request, regarding acquired immune deficiency syndrome (AIDS) and human immunodeficiency virus (HIV) infection and testing for acquired immune deficiency syndrome (AIDS) human immunodeficiency virus (HIV) infection, antibodies to HIV, or infection with any other probable causative agent of AIDS, if the offense is an offense under Section 21.11(a)(1), 22.01, or 22.021, Penal Code.

(12) the right to request victim offender mediation coordinated by the Victim Services Division of the Texas Department of Criminal Justice; and

(13) the right to be informed of the uses of a Victim Impact Statement and the statement's purpose in the Criminal Justice System, to complete the the Victim Impact Statement, and to have the Victim Impact Statement considered:

(A) by the attorney representing the State and judge before sentencing or before a plea bargain agreement is accepted; and

(B) by the Board of Pardons and Paroles before an offender is released on parole.

(b) A victim, guardian of a victim, or close relative of a deceased victim is entitled to the right to be present at all public court proceedings related to the offense, subject to the approval of the judge in the case.

(c) The office of the attorney representing the state, and the sheriff, police, and other law enforcement agencies shall ensure to the extent practicable that a victim, guardian of a victim, or close relative of a deceased victim is afforded the rights granted by Subsection (a) of this article and, on request, and explanation of those rights.

(d) A judge, attorney for the state, peace officer, or law enforcement agency is not liable for a failure or inability to provide a right enumerated in this article. The failure or inability

of any person to provide a right or service enumerated in this article may not be used by a defendant in a criminal case as a ground for appeal, a ground to set aside the conviction or sentence, or a ground in a habeas corpus petition. A victim, guardian of a victim, or close relative of a deceased victim does not have standing to participate as a party in a criminal proceeding or to contest the disposition of any charge.

## **ADDITIONAL RIGHTS**

In addition to the Crime Victim Bill Of Rights found in the Texas Code of Criminal Procedure (TCCP), Chapter 56.02, you may have other rights, including those listed below. For a full list of your rights, please contact your local Victim Assistance Coordinator at the District Attorney or County Attorney's Office, or the Texas Crime Victim Clearinghouse at (800) 848-4284.

1. TCCP Article 17.41 – If a defendant is charged with a sexual offense against a child age 12 or younger, the magistrate may require a no-contact condition on the defendant's bond and also can grant supervised access to the alleged victim. If this conflicts with an existing court order concerning access to a child, this bond condition will prevail, up to 90 days.
2. TCCP Article 21.31 – Anyone charged with a sexual offense involving contact shall be tested for AIDS/HIV, at the request of either the victim or the court. The results shall be released to the local health authority, and that health authority shall report the test results to the victim of the alleged offense.
3. TCCP Article 56.045 – Victims of alleged sexual assault have the right to have an advocate from a sexual assault program present during a forensic exam.
4. TCCP Article 56.06 – A law enforcement agency that requests a forensic medical exam of a victim of an alleged sexual assault for use in the investigation or prosecution of the offense shall pay all the costs of that exam.
5. TCCP Article 56.11 – Victims of family violence or stalking have the right to be notified when a defendant is released from or escapes from custody.
6. TCCP Article 56.32(a)(9) – Victims of domestic violence and victims of sexual assault occurring while at home are eligible to receive Crime Victim Compensation relocation benefits.
7. TCCP Article 57.02 – A victim of an alleged sexual assault can use a pseudonym in public court documents.
8. Texas Family Code Chapter 88 – Texas must honor properly entered orders of protection obtained in another state.

## **RIGHTS OF VICTIMS OF JUVENILE CRIME**

(a) Section 57.002, Family Code, provides the following rights within the juvenile justice system to a victim, guardian of a victim, or close relative of a deceased victim:

- (1) the right to receive from law enforcement agencies adequate protection from harm and threats of harm arising from cooperation with prosecution efforts;

If you have been threatened or intimidated, charges may be filed against the person making such threats. Call the law enforcement agency where you reported the crime and document the threats. Also contact the prosecutor in your community to see what steps may be taken to prevent further violence. The prosecutor can tell you how to get a protective order against the person making the threats.

- (2) the right to have the court or person appointed by the court take the safety of the victim or the victim's family into consideration as an element in determining

whether the juvenile should be detained before the juvenile's conduct adjudicated;

(3) the right, if requested, to be informed of relevant court proceedings, including appellate proceedings, and to be informed in a timely manner if those court proceedings have been cancelled or rescheduled.

(4) the right to be informed, when requested, by the court or a person appointed by the court concerning the procedures in the juvenile justice system, including general procedures relating to:

(A) the preliminary investigation and deferred prosecution of a case; and

(B) the appeal of the case;

(5) the right to provide pertinent information to a juvenile court conducting a disposition hearing concerning the impact of the offense on the victim and the victim's family by testimony, written statement, or any other manner before the court renders its disposition;

(6) the right to receive information regarding compensation to victims as provided by subchapter B, Chapter 56, Code of Criminal Procedure, including information related to the costs that may be compensated under that subchapter and the amount of compensation, eligibility for compensation, and procedures for application for compensation under that subchapter, the payment of medical expenses under Section 56.06, Code of Criminal Procedure, for a victim of sexual assault, and when requested, to referral to available social service agencies that may offer additional assistance;

(7) the right to be informed, upon request, of procedures for release under supervision or transfer of the person to the custody of the pardons and paroles division of the Texas Department of Criminal Justice for parole, to participate in the release or transfer for parole process, to be notified, if requested, of the person's release, escape, or transfer for parole proceedings concerning the person, to provide to the Texas Youth Commission for inclusion in the person's file information to be considered by the commission before the release under supervision or transfer for parole of the person, and to be notified, if requested, of the person's release or transfer for parole;

(8) the right to be provided with a waiting area, separate or secure from other witnesses, including the juvenile alleged to have committed the conduct and relatives of the juvenile, before testifying in any proceedings concerning the juvenile, or, if a separate waiting area is not available, other safeguards should be taken to minimize the victim's contact with the juvenile and the juvenile's relatives and witnesses, before and during court proceedings;

(9) the right to prompt return of any property of the victim that is held by a law enforcement agency or the attorney for the state as evidence when the property is no longer required for that purpose;

(10) the right to have the attorney for the state notify the employer of the victim, if requested, of the necessity of the victim's cooperation and testimony in a proceeding that may necessitate the absence of the victim from work for good cause;

(11) the right to be present at all public court proceedings related to the conduct of the juvenile as provided by Section 54.08, subject to that section; and

(12) any other right appropriate to the victim that a victim of criminal conduct has under Article 56.02, Code of Criminal Procedure.

(b) In notifying a victim of the release or escape of a person, the Texas Youth Commission shall use the same procedure established for the notification of the release or escape of an adult offender under Article 56.11, Code of Criminal Procedure.

In 2001, during the 77th Legislative Session, a bill was passed giving victims the right to request victim offender mediation through the Victim Services Division of the Texas Department of Criminal Justice. Also, victims have the right to be informed of the uses of the Victim Impact Statement and the Statement's purpose in the criminal justice process; to complete a victim impact statement, and to have the statement considered by the attorney representing the state, by the judge before sentencing, before a plea bargain agreement is accepted, and by the Board of Pardons and Paroles before an inmate is considered for release on parole.